

# NEW JERSEY MILITIA NEWSLETTER

Volume IV, Issue No. XI

A monthly newsletter

May, 1999

## THE MISCONSTRUCTION OF *UNITED STATES V.*

### MILLER

--By Howard J. Fezell, Esq.

*United States v. Miller*, 307 U.S. 174, 86 S. Ct. 816 (1939), lends considerable support to the proposition that the Second Amendment guarantees an individual right to keep and bear arms. However, through selective quotation numerous appellate courts have cited *Miller* as authority for their claim that the Second Amendment guarantees only the *collective* right of States to maintain militias.

*Miller* involved the indictment of Jack Miller and a cohort for unlawfully transporting a short-barrelled shotgun in violation of the National Firearms Act of 1934.

When the case was at trial level, Miller's attorney filed a motion to dismiss the indictment (a *demurrer*) on the grounds that the portion of the National Firearms Act under which Miller had been charged violated the Second Amendment. The trial judge granted the motion and the charges against Miller were dismissed. Jack Miller promptly departed to parts unknown.

The United States, however, filed an appeal directly to the Supreme Court. When the case was argued only the government was presented -- and *only its side* of the case was presented to the Justices.

The Supreme Court in *Miller* did not say that the decision of the lower court was wrong. Instead, it reversed the trial court's decision and sent the case back to the trial courts for further proceedings on the question as to whether a short-barreled shotgun is the type of firearm that had utility for militia use.

The individual nature of the Second Amendment right asserted by Jack Miller was never questioned by the Supreme Court. This is a critical point in analyzing *Miller*. If the Second Amendment guaranteed only a right of States the Court would have summarily disposed of Miller's claim on the grounds that it lacked standing to assert it.

What the Supreme Court in *Miller* was concerned about was whether the shotgun he was charged with transporting had "some reasonable relationship to the preservation or

efficiency of a well-regulated militia." 307 U.S. at 178, 59 S. Ct. at 818.

The Court in *Miller* discussed the historical background of the militia in America. What the Court actually said concerning the militia was as follows:

"The Constitution as originally adopted granted Congress power-- 'To provide for calling forth the militia to execute the Laws of the Union, suppress Insurrections and repel Invasions; To provide for organizing, arming, and disciplining the Militia, and for governing such Part of them as may be employed in the Service of the United States, reserving to the States respectively, the Appointment of the Officers, and the Authority of training the Militia according to the discipline prescribed by Congress.' *With obvious purpose to assure the continuation and render possible the effectiveness of such forces the declaration and guarantee of the Second Amendment were made.* It must be interpreted and applied with that in view.

"The Militia which the States were expected to maintain and train is set in contrast with the troops which they were forbidden to keep without the consent of Congress. The sentiment of the time strongly disfavored standing armies; the common view was that adequate defense of country and laws could be secured through the Militia--civilians primarily, soldiers on occasion.

"The signification attributed to the term Militia appears from the debates in the Convention, the history and legislation of Colonies and States, and the writings of approved commentators. *These show plainly enough that the Militia comprised all males physically capable of acting in concert for the common defense. 'A body of citizens enrolled for military discipline.' And further, that ordinarily when called for service these men were expected to appear bearing arms supplied by themselves and of the kind in common use at that time.*" 307 U.S. at 178-79 (italics added)

The importance of the *Miller* decision cannot be understated. According to Prof. Sanford Levinson of the University of Texas:

"*Miller can be read to support some of the most extreme anti-gun control arguments,*

*e.g., that the individual citizen has a right to keep bear bazookas, rocket launchers and other armaments that are clearly relevant to modern warfare, including of course, assault weapons.*" Levinson, "The Embarrassing Second Amendment," 99 Yale L.J., 637, 654-55 (1989)

However, gun-prohibitionists and anti-gun judges routinely cite the italicized portion of the first paragraph, above, while conveniently ignoring the italicized portions of the third paragraph. See, e.g., *Stevens v. United States*, 440 F.2d 144 (6th Cir., 1971). *Stevens* cites *United States v. Miller* for the proposition that "Since the Second Amendment right 'to keep and bear arms' applies only to the right of the State to maintain a militia and not to the right of the individual to bear arms, there can be no serious claim to any express constitutional right of an individual to possess a firearm." *Id.* at 149. *Stevens*, however, quotes no language from *Miller* that would support this conclusion. The same is true of *United States v. Warin*, 530 F. 103, 106, (6th Cir. 1976) (quoting *Stevens*); *United States v. Kozerski*, 518 F. Supp. 1082, 1090 (D.N.H. 1981) (quoting *Warin*); and *Krisko v. Oswald*, 655 F. Supp 147, 149 (E.D.pa. 1987) (quoting *Stevens*).

*United States v. Johnson*, 497 F.2d 548, 550 (4th Cir. 1974) involved a convicted felon who was found in possession of a firearm. It cited *Miller* for the proposition that "The courts have consistently held that the Second Amendment only confers a collective right of keeping and bearing arms which must bear a 'reasonable relationship to the preservation of efficiency of a well regulated militia.'" No explanation of how *Miller* supports this collective right interpretation is offered.

*United States v. Oakes*, 564 F.2d 384 (10th Cir. 1977), involved the appellant's possession of an unregistered machine gun. The court quoted *Miller* for the proposition that the purpose of the Second Amendment was "to preserve the effectiveness and assure the continuation of the state militia." *Id.* at 387. However, *Oakes* offered no explanation as to how *Miller* would require the possessor of a firearm to be associated with an organized militia before being able to assert the protection of the Second Amendment.



*Quilici v. Village Of Morton Grove*, 695 F.2d 261 (1982), involved a constitutional challenge to a local ban on the possession of handguns. *Quilici* discusses *Miller, Id.*, at 270. But it offers no explanation as to how *Miller* could be read to support the proposition that the Second Amendment guarantees only a collective right.

*City of East Cleveland v. Scales*, 460 N.E. 2d 1126 (1983), quotes the first paragraph from *Miller* set forth above, but ignores the language of the third paragraph.

*Why would judges ignore the plain language of United States v. Miller?*

The cases above cannot reconcile themselves with the Court's statement in *Miller* that the militia comprised all males physically capable of acting in concert for the common defense who would be expected to supply their own arms. Why, then, would some judges misconstrue *Miller* as supporting the proposition that the Second Amendment guarantees only a collective right of States?

#### *The Political Angle*

Appellate judges are on the bench in part because they have political connections. I do not mean to say that all judges are hacks who are given judgeship simply as a reward for past loyalty. However, anyone who believes that judicial appointments are made solely on the basis of legal knowledge and temperament is hopelessly naive.

#### *Personal Prejudices*

Judges are human beings. Like the rest of us they have opinions and prejudices that may effect their professional decisions. The idea that ordinary people have a Constitutionally guaranteed right to keep and bear arms scares people who might see "the government" as a positive force that should take an active role in shaping our society.

#### *What's a lawyer to do?*

Intellectually dishonest (or simply lazy) judges will always be with us. It's time to stop worrying about offending judges' collective sensibilities by pulling our punches about this dishonesty. Judges have enormous power, but hate to be held up to ridicule on matters pertaining to their intelligence or integrity. If the other side cites some of the cases referenced above which have misconstrued *Miller*, don't be bashful about labeling them as intellectually dishonest. If a judge selectively quotes *Miller* or relies on it to support a collective interpretation of the Second Amendment, don't let him/her off the hook. In your petition for re-hearing, call that judge to task by pointing out his/her misconstruction of *Miller* in detail.

## STATS SUPPORT

### CONCEALED-CARRY LAWS

E. Thomas McClanahan, *The Kansas City Star*

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Some controversies are so laden with emotion that many people become impervious to facts. An example is airline safety. Air travel is the safest mode of transportation, by far. It's many times safer than a car trip.

But for those who are anxious about flying, statistical evidence will never be convincing. A similar phenomenon clouds the debate over whether Missourians should have the right to carry concealed weapons.

For many, the very idea is repellent, unthinkable. And yet, the statistical record strongly suggests that allowing law-abiding citizens to carry concealed weapons helps deter violent crime. Missouri voters will decide whether to approve such a law on April 6.

The most exhaustive attempt to document the concealed-weapon deterrent effect was conducted by John Lott Jr., former chief economist of the U.S. Sentencing Commission and now a professor at the University of Chicago School of Law.

Lott began with a simple question: Are criminals rational? Are they motivated by self-preservation?

Item: In Canada and Great Britain, which have strong gun control laws, about half of the break-ins are "hot burglaries," meaning they occur when the homeowner is present.

In the U.S. -- where the rate of gun ownership is much higher -- the hot burglary rate is only 13 percent.

Convicted felons responding to surveys say they're less concerned about confronting police than armed citizens. If criminals are rational, then deterrence is a meaningful response. Concealed-carry laws should have a downward effect on violent crime, because such laws thwart a criminal's effort to target potential victims who seem weak.

Lott tested this notion using a database with statistics on crime trends from all of the nation's 3,054 counties between 1977 and 1992. He used sophisticated statistical techniques to isolate the effect of concealed-carry laws from other factors that influence crime, such as arrest rates.

His study makes for dense reading, but the most persuasive findings was this one: In all the states that adopted "shall-issue" concealed-carry laws -- under which officials must issue permits to qualified citizens -- violent crime dropped immediately or shortly after the law became effective.

Yes, crime runs in cycles. But as Lott points out, the drop in each state "...not only begin right when the laws pass but also take the crime rates well below what they had been before...it is difficult to believe that, on the

average, state legislatures could have timed the passage of these laws so accurately as to coincide with the peaks of crime waves..."

The degree of crime reduction also correlates with the number of permits issued. In other words, more concealed weapons, more deterrence, which is why the title of Lott's study, published in book form, is *More Guns, Less Crime*.

Opponents of concealed carry say allowing people to carry weapons will increase the violence generated by "road rage." Yet Lott reports that in 31 states with shall issue laws, some of which have been on the books for more than a decade, there is only one reported incident of such a shooting and that was in a Texas case that was ruled self-defense. I called Lott last week; the Texas incident is still the only recorded case of a permitted handgun being used in a traffic-related shooting.

Another hot-button issue is mass public shootings. Critics say the law would allow Missourians to carry handguns into day-care centers, onto school playgrounds and in other public places. It's a politically effective argument because it implants a concrete and horrifying picture in people's minds.

Yet in the concealed-carry states for which data were available, Lott found that the mean per capita death rate from such incidents fell by 69 percent.

The picture that ought to be in people's minds is that of a citizen with a permitted handgun taking aim at a shooter about to commit mayhem in a public place. Lott recalls a 1984 incident in Jerusalem in which three terrorists brandished automatic weapons and fired, but were themselves shot by armed Israelis after only one victim had been killed. The surviving terrorist later told reporters his group had not realized Israeli citizens were armed.

More than 200 million guns exist in the United States. They're not likely to go away. At the very least, those who accept reality should look with an open mind toward any measure that increases the risk faced by violent criminals.

**Note:** According to news reports Missourians rejected concealed-carry 52% to 48%.

## FIRST AMENDMENT? WHAT FIRST AMENDMENT?

Popular among many patriots and militia groups around the country is studying the law and how to represent oneself in court. The Parson Company distributes *Quicken Family Lawyer* and *Quicken Family Lawyer 99*. The software is loaded with forms and legal documents for the do-it-yourselfers.

This didn't sit too well with US District Judge Barefoot Sanders. He claimed it was

**"The evils of tyranny are rarely seen but by him who resists it."**

**-John Hay, 1872**



practicing law without a license. So, on Jan. 22, 1999 he issued a summary judgment against Parsons preventing them from distributing the software in the future.

Parsons argued that "...it can't be violating the statute, because software can't be construed as a person practicing law. Furthermore, Parsons lawyers argued that the statute would infringe on the company's right to free speech under Texas and US Constitutions."

Nolo Press, which also publishes self-help books dealing with the law out of Berkeley, California, is also being investigated by the Unauthorized Practice of Law Committee.

-Info supplied by Chris Oakes

## KILL THE MESSENGER

John R. Lott, Jr., professor of law and economics at the University of Chicago wrote the well documented book *More Guns, Less Crime*. As most of us know telling the truth in America today is not very popular. So unpopular in fact that Lott, who doesn't own a firearm, has been receiving death threats from anti-Second Amendmentists.

Said Lott, *"We started getting death threats at home. People would ask if I had kids, and if they walked home from school. People would cut out articles from newspapers about gun deaths and send them to me, with a note saying, 'I hope you're next.'"*

## AMERICAN PRISON POPULATION GROWING

According to the Justice Department "the number of American adults imprisoned has more than doubled over the past 12 years, reaching its highest level ever," reported the AP.

In 1985 there were 744,208 Americans incarcerated in prisons. As of mid-1998 it was up to 1.8 million. Drug prosecutions, usually victimless crimes, are packing the prisons.

The United States is second in the world in prison population; Russia is number one. However, there is an amnesty program underway in Russia that would release 100,000 prisoners--thus making America number one.

## THREE DAY WAITING PERIOD--FOREVER?

Senators John Chafee (R-RI) and Dick Durbin (D-IL) want a three-day waiting period for pistol purchases. *"This bill can--and will--save innocent lives,"* said Chafee, the only Republican Senator who supports the bill.

The NRA opposes the proposed bill. *"Waiting periods is a dead end. There's no need to make law-abiding citizens wait when the national instant checks system is a reality,"* said NRA spokesman Jim Manown.

Representative John Ported (R) of Illinois is drafting a similar bill.

## CNN POLL

**Question: Should gun manufacturers be held liable for gun violence?**

Yes: 9% (6373 votes)

No: 86% (60,663 votes)

Sometimes: 5% (3275 votes)

As of February 14, 1999

## SCHOOL WARS

You want separation of church and state? O.K., we'll give you separation of church and state. That seems to be the new mind-set of conservative religious leaders around the country regarding current conditions in our public schools. Washington may soon find out that separation of church and state is a two-edged sword.

There is a growing movement among conservative and evangelical religious organizations and parents to remove their children from public schools and teach them at home i.e., home schooling. This movement is predominately Christian; however, Jewish and Moslem parents are taking a second look at this movement and may join Christians in home schooling.

Dr. James Kennedy of Coral Ridge Ministries, Tim LaHaye, conservative political activist, Robert Simmons, founder of Citizens for Excellence in Education and Rev. E. Raymond Moore, founder of Exodus 2000, are just a few of the notable Christian leaders calling for Christian parents to pull their children out of the public school system.

The movement was started by Libertarian Party member Marshall Fritz who founded The Separation of School and State movement in Fresno, California.

*"There is no peaceful solution to the school wars other than the separation of school and state. It's the only plan that has the makings of a turnaround of American culture. We're falling like a streamlined brick into the toilet,"* said Fritz.

Said Moore, *"We don't think they're a safe place anymore for Christian children. The public school system is doing more harm now to the country than any single thing except perhaps the popular media."*

## GUN-GRAB IN CANADA MEETING RESISTANCE

*"It's time for Canadians to stand up to government and say, 'This is an unjust and immoral law and we're not going to obey it,'"* said former Royal Canadian Mounted Police officer R. Bruce Hutton, who heads up a 7,000 member group called The Law-Abiding Unregistered Firearms Association.

Canadian law requires that all firearms owners be registered along with their guns.

*"There's terrific resentment here against registration, and the biggest reason for that is that people don't trust Government,"* said Lyle Thompson from Whitehorse, near the Yukon

River. *"I know that sounds radical, and about 10 years ago I would have said it could never happen because this is Canada, people can vote here. But now I've changed my mind."*

Thompson is the vice president of the Whitehorse Rifle and Pistol Club and said he has no intentions of registering his guns. He is now involved with a local chapter of the Reform Party. *"This law might make sense in urban Toronto, but it sure doesn't make sense out here in the west,"* said Thompson.

The *New York Times* reported that, "Even provincial governments in the west resent what they see as Ottawa's meddling. Yukon joined Alberta, Saskatchewan, Manitoba and the Northwest Territories in challenging the constitutionality of the gun control legislation, arguing that regulations governing property are the jurisdiction of the provinces, not the Federal Government."

The *Times* reported that 15% of he households in Ontario have firearms compared to 70% in Yukon, where children learn to "ice skate at two and shoot at five..."

## GREENSPAN ON Y2K

Federal Reserve Chairman Alan Greenspan is saying that there's no reason to withdraw your savings before Y2K. *"The most sensible thing is to leave it where it is,"* said Greenspan. He added, *"There's almost no conceivable way that computers will break down and records of people's accounts would disappear."*

At the same time however, the Fed is stockpiling an extra \$200 billion in cash--just in case.

## ONE A MONTH

The Los Angeles City Council has unanimously approved an ordinance permitting only one handgun purchase a month. *"This is an important stride in preventing gun violence,"* said Mike Feuer, who sponsored the bill.

## ANTI-MILITIA LEGISLATION PROPOSED IN COLORADO

*"It's time to stand up to these groups and say that Colorado is not the place for extremist groups that promote violence and seek to create an atmosphere of fear and intimidation,"* said State Senator Mike Feeley (D-Lakewood), who is proposing the bill.

Anyone convicted of participating in militia activity would receive an 18-month prison term and a \$5,000 fine.

Said Feeley, *"These people advocate nothing less than the dismantling, by force, if necessary, of the entire U.S. government and the repudiation of many of our constitutional rights."*



First, we know of no militia group that advocates the "...the dismantling, by force..." of the U.S. government. If the federal government remained within the limitations imposed upon it by the Constitution, there would be no militia movement today. What militia groups are calling for is for the federal government to return to the form of government the Framers original intended. No more, no less. Of course, this type of thinking today is considered radical.

Secondly, the proposed law would ban militia activity of "two, or more individuals..." Could any of our readers explain to us how two guys in a pickup truck with a couple of shotguns are going to achieve what Germany, Japan, and Italy could not achieve during WWII? If anyone has the answer please contact us because we can't figure it out. Someone should ask Mr. Feeley, we'll bet he can't figure it out either.

## UN GOALS

When a country prohibits their citizens from firearms ownership it's sometimes an ill omen of a dictatorship in the making. But what happens if the firearms restriction is worldwide? Time for the Apocalypse perhaps? If the UN has their way that's exactly what will happen.

"Norway and Canada are leading a United Nations effort to limit ownership of firearms on a global basis. Norway hosted a 21-country conference in Oslo late in 1998 to consider the 'control, collection and reduction' of small arms worldwide. Norwegian foreign minister Kurt Volleback said the world cannot wait for individual countries to enact regulations because 'immediate action' is needed," reported the March/April 1999 *American Handgunner*.

Also Canada reportedly plans to share all firearms registration information with the ATF and international police agencies. Any American who travels to Canada for a hunting trip--beware! Information about your firearms, which have to be registered with Canadian officials, will be handed over to the ATF and Interpol.

## FIRST 'ASSAULT WEAPONS' NOW RIFLES AND SHOTGUNS?

*"We were shocked to learn that the Illinois Association of Chiefs of Police apparently supports the banning of hunting rifles and shotguns. We've always assumed that the policeman was the friend of the hunter, but I guess that times have changed,"* said Richard Pearson, president of the Illinois State Rifle Association.

U.S. Newswire reported that "Pearson's remarks follow House Judiciary Committee hearings on a bill aimed at limiting the ability of cities and towns to ban the ownership of hunting rifles and shotguns. During the

hearings, the police chiefs' association registered its strong opposition to the bill."

*"We were taken completely by surprise,"* said Pearson. *"Hunters and policemen have enjoyed a fruitful relationship over the years. But now, the chiefs association seems to want to paint duck and deer hunters with the same brush as rapists and gang-bangers. We suspect that opposition to this bill has its roots in the radical Chicago-based elements of the chiefs' association. We hope that the reasonable majority of our police chiefs will work together to restore the spirit of goodwill shared for so long by law enforcement and hunting communities."*

## COMMUNIST GOALS

1) U.S. acceptance of coexistence as the only alternative to atomic war.

2) U.S. willingness to capitulate in preference to engaging in atomic war.

3) Develop the illusion that total disarmament by the United States would be a demonstration of moral strength.

4) Permit free trade between all nations regardless of Communist affiliation and regardless of whether or not items could be used for war.

5) Extend long-term loans to Russia and Soviet satellites.

6) Provide American aid to all nations regardless of Communist domination.

7) Grant recognition to Red China. Admit Red China to the U.N.

8) Allow all Soviet satellites individual representation in the U.N.

9) Promote the U.N. as the only hope for mankind. If its charter is rewritten, demand that it be set up as a one-world government with its own independent armed forces.

10) Use technical decisions of the courts to weaken basic American institutions by claiming their activities violate civil rights.

11) Get control of the schools. Use them for transmission belts for socialism and current Communist propaganda. Soften the curriculum. Get control of teachers' associations. Put the party line in textbooks.

12) Gain control of all student newspapers.

13) Use student riots to foment public protests against programs or organizations which are under Communist attack.

14) Infiltrate the press.

15) Gain control of key positions in radio, TV, and motion pictures.

16) Continue discrediting American culture by degrading all forms of artistic expression. An American Communist cell was told to "eliminate" all good sculpture from parks and buildings, substitute shapeless, awkward and meaningless forms.

17) Control art critics and directors of art museums. "Our plan is to promote ugliness, repulsive, meaningless art."

18) Eliminate all laws governing obscenity by calling it "censorship" and a violation of free speech and free press.

19) Break down cultural standards of morality by promoting pornography and obscenity in books, magazines, motion pictures, radio and TV.

20) Present homosexuality, degeneracy, and promiscuity, as "normal, natural, healthy."

21) Infiltrate the churches and replace revealed religion with "social" religion. Discredit the Bible and emphasize the need for intellectual maturity which does not need a "religious crutch."

22) Eliminate prayer or any phase of religious expression in the schools on the grounds that it violates the principle of "separation of church and state."

23) Discredit the American Constitution by calling it inadequate, old-fashioned, out of step with modern needs, a hindrance to cooperation between nations on a worldwide basis.

24) Discredit the American Founding Fathers. Present them as selfish aristocrats who had no concern for the "common man."

25) Support the socialist movement to give centralized control over any part of the cultural education, social agencies, welfare programs, mental health clinics, etc.

26) Transfer some of the powers to arrest to social agencies. Treat all behavioral problems as psychiatric disorders which no one but psychiatrists can understand or treat.

27) Dominate the psychiatric profession and use mental health laws as a means of gaining coercive control over those who oppose Communist goals.

28) Discredit the family as an institution. Encourage promiscuity and easy divorce.

--Congressional Record, Jan. 10, 1963

## Memorandum to All Division Commanders

### Subject: Year 2000 Contingency Plans

Planning is currently underway in the development of contingency procedures for possible incidents related to the turn of the century.

Possible scenarios resulting from computer programming deficiencies related to the turn include the interruption of public utility services and the actions of fringe elements that place a significance on the event.

Although representatives from the public utility community have made assurances that there will be no interruption of services resulting from programming problems, the City of Dallas must be prepared to respond to incidents precipitated by any interruptions, including those resulting from acts of terrorism.

Therefore, no leave outside of regular days off will be granted for Thursday, December 30, 1999 through Sunday, January 2, 2000. All regular days off are subject to be canceled during this time period if the need arises. Officers are advised to use discretion in making plans during this time period that require paying deposits or making



nonrefundable purchases (plane tickets, hotel rooms etc.). In addition, advise all personnel that they may not be able to honor commitments they have made for off duty employment during those days.

Robert L. Jackson, Jr.  
Acting Chief of Police  
City of Dallas, Texas

## Sex Education in Our Public Schools

By Carmen DiMattia

When parents abdicate responsibility to the schools they allow outsiders to set the moral tone of their child's life. The myth is that "sex education is a process of giving scientific information to young people as a way of stemming the rise of teen pregnancy." The fact is that the age of first sexual encounter has dropped and the number of teen abortions and teen births have skyrocketed as sex education has expanded.

During sex education's first decade the government poured over \$2 billion into sex education programs. The payback was a 48.3% increase in teen pregnancies, a 133% increase in teen abortions, and an epidemic of sexually transmitted diseases.

In 1964 the Sex Information Education Council of the United States was formed. Though it sounds official the organization has never carried any government sanction. Today SIECUS is the nation's largest clearing house for information regarding sex in all forms.

An example of SIECUS' deplorable criteria is the "Learning About Family Life" curriculum written by Barbara Spring and published by the Rutgers University Press. In the curriculum, now being used in some public schools, five year olds are told exactly what sexual intercourse entails: "The man puts his \_\_\_\_\_ in the woman's \_\_\_\_\_ and that feels good for the both of them."

SIECUS also advises that kindergarten students should be told that "it feels good to touch parts of the body." SIECUS' justification for this trash is that "the sooner and more completely kids are divested of their innocence in sexual matters, the less vulnerable they will be to repression, victimization and disease."

I believe premature information stimulates sexual curiosity and experimentation in children before they are emotionally ready and should be classified as child abuse. I also believe sex education belongs to the parents and should be eliminated from the public school curriculum. There are too many course offerings that take away from the three Rs.

What do you think?

## THE DEMOCRAT WORK-OUT PROGRAM

By Tom Adkins

**Democrat Gym Search:** Join the most expensive gym around. Sign up everyone you know. Charge to American taxpayers.

**Bill Clinton Social Security Stretch:** Bend down. Grab both ankles firmly. Hold approximately 50 to 60 years.

**Democrat Tax Lift:** Grab a 500 pound weight. Tie around your neck.

**Al Gore Dumbbell Press:** Grab a dumbbell. Smack yourself upside the head until you say something stupid, like claiming to have invented the Internet.

**Liberal Diet:** Gain 20 pounds. Lose three. Claim you made "draconian cuts."

**Clinton Wind Sprints:** Find members of the national news media. Run like hell in the opposite direction.

**Dog Shake:** Grab dog by the tail. Shake vigorously until missiles fly into Iraq.

**Maxine Waters 50 Pound Drop:** Hold 50 pound dumbbell approximately chin-high. Drop on your foot. Blame white racism.

**Lewinsky Chin-ups:** Call for private instructions.

**Clinton Dead Lift:** Sneak into office of latest Clinton associate who dies suspiciously. Lift files over your head. Carry to secret location.

**Geraldo Rivera Stretch:** Hold dirty Bill Clinton underwear chest high, arms extended towards TV camera. Blame Ken Starr.

**CNN Cow-Chip Diet Plan:** Replace American diet of real news with CNN cow-chips, specially prepared for CNN by the Democratic National Committee. Yum!!!

**DNC Cool-Down:** Lie down. keep lying, and lying and lying...

## The Destruction of the Posse Comitatus Act

A brief chronology:

1878 -- The Posse Comitatus Act makes it illegal for the military to act as police on U.S. territory or waters.

1981 -- The Act is amended to allow limited military involvement in policing.

1991 -- The Act is amended to allow counter-drug training of civilian police by the military.

1993 -- Joint Task Force 6, under the direction of the Army Chief of Staff, Gen. Reimer, trains AFT agents for the assault on the non-existent Branch Davidians' "amphetamine lab".

1995 -- JTF 6's authority is expanded to cover the entire continental U.S. It has 700 troops on the Mexican border. (*Houston Chronicle*, June 22, 1997)

1997 -- Esquiel Hernandez, a teenage goat herder, is the first U.S. citizen shot and killed by U.S. troops.

The National Guard currently has 4,000 counter-narcotics officers, more than the DEA has special agents. Each day it is involved in 1,300 counter-drug operations. ("The Drug Threat: Getting Priorities Straight", M. Munger, *Parameters*, Summer 1997)

Eighty-nine percent of police departments have paramilitary units, and 46% have been trained by active duty armed forces. The most common use of such paramilitary units is during drug-related searches, usually warrantless no-knock entries into private homes. ("Militarizing American Police: The Rise and Normalization of Paramilitary Units", Kraska and Kappeler, *Social Problems*, Vol. 44, No. 1, February, 1997)

"Drug Czar" Gen. Barry McCaffery (Ret.) said of the drug war, "It makes us all very uncomfortable to see uniformed military units getting heavily involved." ("Military Seeks Balance in Delicate Mission: The Drug War", McGee, J., *Washington Post*, November 29, 1996) -- Common Sense for Drug Policy, <http://www.csdp.org/factbook/military.htm>

## Letters To The Editor

Editor's note: Of all the articles we've printed in four years of publication, "Light at the Back of the Tunnel" generated more responses, including an interview on the Johnny Rowland Show on the American Freedom Network.

\* \* \* \* \*

Editor,

You have hit on something magnificent! I applaud you. I am the publisher of *The Jubilee* newspaper in California. I would like your permission to publish your piece in our forthcoming newspaper. If at all possible, please grant said permission as soon as possible as the issue goes to press in a few days.

Paul Hall

Note: Permission was given. --Ed.

Editor,

In my opinion you are an accomplished Second Amendment authority and a Constitutional scholar as well.

M.B.

Editor,

After reading your dissertation on the 2nd. Amendment, I have come to the conclusion (correct me if I'm wrong) that you are a High School Dropout.

I refer you to the famous statement of a dropout, who said, "If it weren't for high school dropouts, there would be no business owners to hire the college grads."

And, I might add, I'm a high school dropout.

Your clarity of thought, and refusal to be cowed to the brainwashing attempts of the "handlers," show a disposition to thinking for yourself. That, in turn, would lead you to dropping out of the cookie-cutter school system



at some early date. I have bested lawyers at their own game, and you know how much "schooling" they are required to complete. Please let me know if my assumption is correct.

A.F. (e-mail)

Note: Mr. F. is correct. --Ed.

Editor,

An excellent dissertation on the less than honorable tactics the courts and anti-gun lobbyists are using to undermine the rights of individual Americans. I was not aware of these salient points you brought out. I am saving your comments to file. I would like your permission to copy and distribute your argument. It is something I would like to refer to in the future. Ignorance is the most widespread disease afflicting the citizens of this nation at present. In fact, it is pandemic. It is my personal belief the disease is due to the Federal and State educational doctrines that American public schools teach multiculturalism and the anti-Western bias that passes as history instruction these days. It may be too late for the "Homer Simpsons" among the adult population who would rather glean their smatterings of American History from PBS and other revisionists. Since I cannot afford to send my children to any other schools but these deplorable public institutions, I have for a long time undertaken to teach my children myself and avail every opportunity to expose my children to the "true" history of the United States. I can report then for my middle school children, it is an on-going success. Once again, thank you for your research and posting of this valuable information.

A. B. (e-mail)

Editor,

I do have a comment on the 2nd Amendment essay. Not having known that the courts were interpreting the Second Amendment in light of the "preamble," I wouldn't have noticed that the courts' reasoning was legally flawed. But now that this information has come to my attention, I think it is interesting to note that interpreting the amendment this way is also LOGICALLY flawed. It's a logical error known as "denying the antecedent." To wit: If it is true that "if A, then B," it does NOT then logically follow that "if not A, then not B."

For the courts to assume that the second premise, "keep and bear arms shall not be infringed" requires that the first premise, "to maintain a well regulated militia," be met, is simply flawed logic. It is a classic, formal logical fallacy.

S.Z. (e-mail)

Editor,

Thank you for the delightful article. More? Send postal mailing address to receive copies of newsletter.

A.V. (e-mail)

Editor,

The preamble of the Second Amendment should NOT be removed!

Look at Title 10 of the US Code (10 USC 311). This "LAW" defines the militia as all males from 16 to 46 years of age. That is the short definition.

Also, the argument that the Second Amendment mean State militia/National Guard does not hold water. The Militia Act of 1903 or 1906 created the National Guard. Our Founding Fathers knew nothing of the National Guard. They wanted us, you and me, to be armed.

Frank (e-mail)

Note: We e-mailed the following response

In regards to "Light at the Back of the Tunnel", you say, "The preamble of the Second Amendment should NOT be removed!"

Where in the article did we say that the preamble should be removed? The point we were trying to make is that the courts are using the preamble in deciding firearms cases. But a preamble, as presented in the Second Amendment, is not a right, not a law, not a code, not a statute. It simply serves as an introduction. That's not our opinion--that's a legal fact. Ask any lawyer, law professor, or check it out in any law dictionary.

Many gun owners are sitting in federal and state prisons because the judge decided the case based on the preamble and not the right itself. If you want a clear understanding of what the Second Amendment is saying, read it this way: ***"Whereas, a well regulated militia being necessary to the security of a free state, therefore, the right of the people to keep and bear arms shall not be infringed."*** The

"whereas" is not the right, it's the preamble, the introduction--the "therefore" is the right.

Our article wasn't a call to "remove" the militia clause of the Second Amendment preamble. The entire point of the article was to expose the illegal and unethical practice by the courts in using the preamble to decide a case. If this were done in other areas of law (patent law, contracts, civil cases, etc.) the judge would be kicked off the bench; it simply would not be allowed. So why are they allowed to do it with the Second Amendment? In *this* regard, (and I emphasize "*this*") the preamble of the Second Amendment SHOULD be ignored.

Secondly, you wrote, "*Also, the argument that the Second Amendment means State Militia/National Guard does not hold water.*" Nowhere in the article was the National Guard mentioned. You need to read the article again.

Note: Frank did read the article again and saw the error-of-his-ways. A few days later we received the following note:

Sorry for the misunderstanding. I was trying to say we can use the preamble to our advantage. Sadly, you are correct. Judges today feel free to impose their point of view of the Second Amendment rather than the actual meaning.

Frank (e-mail)

Dear NJM,

Enclosed is \$5 to initially cover my 1999 sub to what amounts to America's most detailed militia newsletter. I consider it a most important resource and will continue to morally support you. At this time I am over the road driving truck. The East interests me -- it's the cradle of our Republic and home of the nation's most hallowed ground.

Will remit rest of '99 sub soon.

Be free and be safe. God bless.

J.W.

Washington

Thank you, NJM members. We love you.

For God, family and country,

C.B.

Pennsylvania

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ISSN 1523-4657

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